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July 25, 2008

Severn E.S. Miller
Chief Counsel
Federal Transit Administration
1200 New Jersey Ave. S.E.,
Room E55-302
Washington, D.C. 20590

Dear Mr. Miller:

On July 22, 2008, in an article appearing in the *San Diego Union-Tribune*, the community was informed that recent changes in federal regulations affecting charter bus service will mean that two San Diego County public transit providers will not be providing transportation service to and from the San Diego Chargers football games at Qualcomm Stadium for the upcoming NFL season.

Without this service, thousands of fans will have to make other arrangements to get to the games. Many will certainly choose to drive their own cars which will add hundreds if not thousands of personal vehicles to San Diego freeways and surface streets both before and after Chargers games. Increased vehicle volume will further aggravate the already gridlocked conditions that patrons encounter in their approach to Qualcomm Stadium, and substantially more gasoline will be consumed as fans choose to use their personal vehicles over the express bus service or other transportation options.

It is understood that the change in the regulation was intended to prevent private charter services from having to compete with public transportation providers that receive federal tax subsidies. According to the *Union-Tribune* article, "One company, Colonial Coachlines of Mount Prospect, Ill., offered a bid to North County Transit of \$17,226 for a 55-passenger coach. That's \$313.20 per passenger – about the cost of three field-level tickets for a Chargers game." It should be no surprise that citizens are outraged at this news.

The situation with the San Diego Metropolitan Transit System (MTS) is somewhat different. It would seem that the service that MTS would like to offer might not fall under the definition of *charter service* as that term is defined in 49 CFR Part 604. MTS may avoid the rule

altogether and offer the service if the fare sought by MTS for the express service to the Charger games does not exceed their "usual or customary fixed route fare".

In an Advisory Opinion (*Advisory Opinion 08-13*) issued by you on June 11, 2008, you were of the opinion that you could not determine whether the fare MTS was proposing was greater than the usual or customary fixed route fare because the fare MTS offered as a comparison involve routes that are 20-30 miles longer than those of the Charger game express service.

It would seem that in making the determination as to whether the proposed fare exceeds the usual or customary fare, some discretion is involved. Having the choice between carrying a busload of people commuting to and from work on the daily limited express bus service 20-30 miles further than a busload of angry (or elated) and frequently alcohol fueled football fans, the smart bus driver is going to opt for the commuters every time. While it may be a little further, it's just not as much work or risk.

You may also know that greater security is required for the service to the Charger games because of the cash intensive nature of that service and the additional concerns with the nature of the patrons using the bus. I would encourage you to take these additional factors into your consideration when making a decision as to whether the fare for the express service for the Charger games exceeds the usual or customary fixed route fare.

I don't doubt that you will make the right decision when considering whether the additional information you have been provided by MTS demonstrates that the fare MTS is proposing for the shuttle service to the Charger games does not exceed the "usual or customary fixed route fare".

Mr. Miller, people need some good news from the government. They need to see that at a time when gas and food prices are taking increasingly larger bites out of their hard earned incomes, the government doesn't do something silly like take away a cost-effective and safe means for them to get to and from a football game. It is my hope that you will take this opportunity to do the right thing and show the citizens of this country that the government is not blind to what is going on in their lives.

Very truly yours,

Michael J. Aguirre
City Attorney

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congressman Bob Filner
Harry Mathis, Chairman, Board of Directors for the Metropolitan Transit System

Councilmember Toni Atkins, Board Member,
Board of Directors for the Metropolitan Transit System
Councilmember Tony Young, Board Member,
Board of Directors for the Metropolitan Transit System
Councilmember Brian Maienschein, Board Member,
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Councilmember Kevin Faulconer, Board Member,
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Tiffany Lorenzen, General Counsel, Metropolitan Transit System